

April 8, 2002

ENERGY & ENVIRONMENT
COMMITTEE
MEETING NO. 4

ALL MEMBERS PRESENT. CHAIRMAN DeBENEDETTI PRESENT AS EX-OFFICIO MEMBER.

1. RESOLVED, that the following items are hereby received and filed.

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|----|--|------|-------|---------------|
| | Item | Page | -2001 | (Comm. 2E-37) |
| a. | COUNTY EXECUTIVE: ECSD No. 5 – Eminent Domain Proceedings.
(5-0) | | | |
| | Item | Page | -2002 | (Comm. 7D-3) |
| b. | DEP: SEQR – Solicitation for Lead Agency Status – Type I Action.
(6-0) Chairman DeBenedetti present as Ex-Officio Member. | | | |
| | Item | Page | -2002 | (Comm. 7E-27) |
| c. | COUNTY EXECUTIVE: ECSD No. 1 – Engineering Agreement Dated 2/3/00 Pratt & Huth Associates – Change Order No. 2.
(6-0) Chairman DeBenedetti present as Ex-Officio Member. | | | |
| | Item | Page | -2002 | (Comm. 7E-30) |
| d. | COUNTY EXECUTIVE: ECSD No. 2 – Southwest Interceptor & Pumping Station Facilities Evaluation – URS Greiner Woodward Clyde – Change Order No. 4.
(6-0) Chairman DeBenedetti present as Ex-Officio Member. | | | |

2. Item Page -2001 **AS AMENDED**
COUNTY EXECUTIVE (Comm. 1E-27)
(A)
RESOLUTION NO.____-2002

RESOLUTION DATED ____,2002

RESOLUTION APPROVING THE EXTENSION OF ERIE COUNTY
SEWER DISTRICT NO. 4 AND MAKING OTHER
DETERMINATIONS IN CONNECTION THEREWITH

(Introduced) April 8,2002.
(Adopted) _____,2002.

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, a report of the Erie County Sewer Agency dated October 24, 2001 and a resolution of the Erie County Sewer District No. 4 Board of Managers

dated October 24, 2001, an extension of Sewer District No. 4 of the County of Erie, New York has been proposed; and

WHEREAS, a map and plan have been duly prepared by the County Engineers (Erie County Department of Environment and Planning) relating to such extension of the Erie County Sewer District No. 4, which map and plan have been filed with the County Legislature pursuant to Section 254 of the County Law; and

WHEREAS, there will be no additional capital costs incurred by or on behalf of the Erie County Sewer District No. 4 with respect to the extension of the boundaries of such District, but future annual charges will be apportioned between real property in the District in accordance with their respective proportionate shares in accordance applicable flat charges, hook-up charges and charges based on units, assessed value and footage, specified in the District's Benefit and User Charge formulas, as such formulas currently exist and as amended from time to time; and

WHEREAS, pursuant to Section 258 of the County Law, the consent of the State Comptroller is not required prior to the extension of said Erie County Sewer District No. 4 because such extension is not to be financed by the issuance of bonds, notes, certificates or other evidences of indebtedness of the County; and

WHEREAS, said County Legislature duly adopted Resolution No. 46-2002 on the 7th day of February, 2002, calling a meeting of the County Legislature for the purpose of holding a public hearing on the aforesaid extension of Erie County Sewer District No. 4 in accordance with the aforesaid map and plan, and

WHEREAS, the Erie County Sewer District No. 4 Board of Managers and the County Legislature have given due consideration to the impact that the extension of Erie County Sewer District No. 4 may have on the environment and on the basis of such consideration, have found that no substantial adverse environmental impact will be caused thereby; and

WHEREAS, the Erie County Sewer District No. 4 Board of Managers and the County Legislature have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith; and

WHEREAS, said public hearing was duly held at 25 Delaware Avenue, Buffalo, New York, in said County, on the 21st day of March, 2002, at 1:30 o'clock P.M., Prevailing Time; and

WHEREAS, notice of said public hearing was duly published in the manner provided by law and proof thereof was submitted to said County Legislature; and

WHEREAS, said County Legislature has duly considered the evidence given at such public hearing;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. Upon the evidence given at the public hearing held on March 21, 2002, and after due consideration of the map and plan, and other recommendations and other data, if any, heretofore provided to the County Legislature, it is hereby found and determined that:

- (a) the proposed extension is satisfactory, sufficient, adequate and appropriate;
- (b) all the property and property owners within the proposed extension are benefited thereby;
- (c) all the property and property owners benefited are included within the limits of the proposed extension;
- (d) it is in the public interest to extend said Erie County Sewer District No. 4.

Section 2. The extension of Erie County Sewer District No. 4 is hereby approved and said extension shall comprise an area described as follows:

- (a) Walden Corridor Extension Area:

Beginning at a point on the centerline of Peppermint Road where it intersects the east line of Erie County Sewer District No. 4, said centerline also being the north line of Farm Lot 6, Section 5 of the Holland Land Company survey; thence easterly along the centerline of Peppermint Road and its centerline extended easterly to a point on the centerline of Townline Road, said point also being the northeast corner of Farm Lot 2, Section 2 of the Holland Land Company survey, thence southerly along the centerline of Townline Road to a point; said point being the intersection of the northerly boundary of property belonging to CSX Railway Corp. as extended to the centerline of Townline Road; thence westerly in an irregular manner along the northerly boundary of CSX Railway Corp. to the easterly boundary of Erie County Sewer District No. 4, thence northerly along the easterly boundary of Erie County Sewer District No. 4 to a point on the centerline of Walden Avenue, said point being the southwest corner of Extension No. 1 to Erie County Sewer District No. 4 as adopted by the Erie County Legislature on September 4, 1980; proceeding in an easterly direction and following along the boundary of said Extension No.1 to a point on the original east boundary of Erie County Sewer District No. 4; thence northerly along the easterly boundary of Erie County Sewer District No. 4 to the point or place of the beginning. (The description of said Walden Corridor Extension Area is intended to include lands currently part of Town of Lancaster Sewer District Nos. 6 and 7).

- (b) Lancaster Sewer District No. 4 Extension Area

To encompass the entire area of the Town of Lancaster Sewer District No. 4; beginning at a point located at the intersection of the centerline of Broadway with the division line

between the Town of Lancaster on the east and the Village of Lancaster on the west; thence easterly along the centerline of Broadway 672+/- feet; thence southerly and along the easterly line of the Louis Pohlman property 190+/- feet, thence westerly and parallel to Broadway 672+/- feet to a point on the aforementioned division line between the Town of Lancaster on the east and the Village of Lancaster on the west; thence northerly along the said division line 190+/- feet to the point of the beginning.

(c) Lancaster Sewer District No. 8 Extension Area

To encompass the entire area of the Town of Lancaster Sewer District No. 8; beginning at a point located on the northerly highway boundary of Peppermint Road (49.5 feet wide) where said highway boundary intersects the westerly line of Lot 9, Section 3, Township 11, Range 6, thence easterly along the northerly highway boundary of Peppermint Road a distance of 442.66 feet; thence northerly parallel with the easterly line of Lot 9, Section 3, Township 11, Range 6, a distance of 458.2 feet; thence easterly along the northerly line of lands conveyed under Liber 9819, page 36, and Liber 10099, page 572, a distance of 904.67 feet; thence northerly along the easterly line of Lot 9, Section 3, Township 11, Range 6, a distance of 2388+/- feet; thence northwesterly at an angle of 118° +/- a distance of 388+/- feet; thence westerly at an interior angle of 155° +/- a distance of 245+/- feet; thence northwesterly at an interior angle of 228° +/- a distance of 380+/- feet; thence northwesterly at an interior angle of 169° +/- a distance of 700+/- feet; thence southwesterly at an interior angle of 122° +/- a distance of 273+/- feet; thence easterly at an interior angle of 103° +/- a distance of 147+/- feet; thence southerly at an interior angle of 263° +/- a distance of 298+/- feet; thence southerly at an interior angle of 187° +/- a distance of 410+/- feet; thence westerly at an exterior angle of 86° +/- a distance of 145+/- feet; thence southerly at an interior angle of 91° +/- a distance of 361+/- feet; thence southerly at an interior angle 147° +/- a distance of 259+/- feet; thence southerly at an interior angle of 192° +/- a distance of 165+/- feet; thence westerly at an interior angle of 266° +/- a distance of 290+/- feet; thence westerly at an interior angle of 196° +/- a distance of 200+/- feet; thence westerly at an interior angle of 191° +/- a distance of 370+/- feet; thence westerly at an interior angle of 164° +/- a distance of 148+/- feet; thence southerly at an interior angle of 104° +/- a distance of 431+/- feet to the northerly line of lands conveyed under Liber 9751, page 93; thence easterly along the northerly line of lands conveyed under 9751, page 93, and Liber 9954, pages 53 and 56, a distance of 1,309.65 feet; thence southerly along the easterly line of lands conveyed under Liber 9751, page 93, a distance of 1,095.25 feet; thence easterly along the northerly highway boundary of Peppermint Road (49.5 feet wide) a distance of 15.14 feet to the place or point of the beginning.

Section 3. There will be no additional capital costs incurred by or on behalf of the Erie County Sewer District No. 4 with respect to the extension of the boundaries of such District, but future annual charges will be apportioned between real property in the District in accordance with their respective proportionate shares in accordance applicable flat charges, hook-up charges and charges based on units, assessed value and footage, specified in the District's Benefit and User Charge formulas, as such formulas currently exist and as amended from time to time.

Section 4. This resolution is subject to permissive referendum and the Clerk of the Legislature is hereby authorized and directed to publish in full, within ten days after the adoption hereof, a Notice containing a true copy of this resolution, the resolution number, the date of adoption and a statement that such resolution is subject to permissive referendum.
(5-0)

(B)

RESOLUTION NO. ____-2002

RESOLUTION DATED _____,2002.

A RESOLUTION CALLING A PUBLIC HEARING FOR THE PURPOSE OF CONSIDERING A PROPOSED INCREASE AND IMPROVEMENT OF THE FACILITIES OF ERIE COUNTY SEWER DISTRICT No. 2 IN THE COUNTY OF ERIE, NEW YORK.

(Introduced) April,2002.

(Adopted)_____,2002

WHEREAS, pursuant to proceedings heretofore had and taken in accordance with the provisions of Article 5-A of the County Law, including approving orders of the State Comptroller, County Sewer District No. 2 of the County of Erie, New York, (the "District") has heretofore been established, and

WHEREAS, such County Legislature has heretofore duly directed that there be prepared a report and estimate of cost by the County Engineers (Erie County Department of Environment and Planning) relating to a proposed increase and improvement of the facilities of the District which report and estimate of cost have been approved by the Board of Managers of the District on February 14, 2002 and filed with the County Legislature pursuant to Section 268 of the County Law; and

WHEREAS, said report and estimate of cost describe a proposed increase and improvement of the facilities of the District, consisting of the reconstruction and/or replacement of approximately 27,000 feet of existing sewers, manholes and appurtenances throughout the District, all as more fully described in the report and estimate of cost hereinbefore referred to; and

WHEREAS, the maximum estimated cost of the aforesaid increase and improvement of the facilities of the District is \$3,000,000, to be assessed against a benefitted area which consists of the entire area of the District; and

WHEREAS, pursuant to applicable provisions of Section 268 of the County Law, as amended by Chapter 397 of the Laws of 1995, the consent of the State Comptroller is not required prior to the expenditure of funds for said increase and improvement because the cost thereof to the Typical Property (as defined in the County Law) is as follows: \$8.80 for the Town of Hamburg, \$8.10 for the Town of Eden, \$4.50 for the Village of North Collins and \$7.20 for the Town of Evans; such costs not being above the Average Estimated Cost of \$17.00 to the Typical Properties for similar types of expenditures, as computed by the State Comptroller; and

WHEREAS, it is now desired to call a public hearing to consider said increase and improvement in accordance with the provisions of Section 254 of the County Law;

NOW, THEREFORE, BE IT RESOLVED, BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK, AS FOLLOWS:

Section 1. A meeting of the County Legislature of the County of Erie, New York shall be held at 25 Delaware Avenue, Buffalo, New York, in said County, on the 9th day of May, 2002, at 1:30 o'clock P. M., Prevailing Time, for the purpose of conducting a public hearing upon the aforesaid proposed increase and improvement of facilities of Erie County Sewer District No. 2 in said County, and for such other action on the part of said County Legislature in relation thereto as may be required by law or proper in the premises.

Section 2. The notice of such public hearing shall be in substantially the following form, to-wit:

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that a meeting of the County Legislature of the County of Erie, New York, shall be held at 25 Delaware Avenue, Buffalo, New York, in said County, on the 9th day of May, 2002, at 1:30 o'clock P.M., Prevailing Time, for the purpose of conducting a public hearing upon a proposed increase and improvement of facilities of Erie County Sewer District No. 2 in said County.

The increase and improvement of such facilities consists of the reconstruction and/or replacement of approximately 27,000 feet of existing sewers, manholes and appurtenances throughout the District, all as more fully described in the report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning) which has been filed with the County Legislature and which has been approved by the Board of Managers of said District on February 14, 2002.

The maximum estimated cost of such increase and improvement of facilities is \$3,000,000, to be assessed against a benefited area which consists of the entire area of said Sewer District No. 2.

The expenditures for such increase and improvement of facilities will not cause additional costs for property owners in the District for hook-up fees, and the annual cost of such expenditures to the Typical Property (as defined in the County Law) is as follows: \$8.80 for the Town of Hamburg, \$8.10 for the Town of Eden, \$4.50 for the Village of North Collins and \$7.20 for the Town of Evans. The County Legislature has heretofore caused to be prepared and filed for public inspection with the Clerk of the Erie County Legislature, a detailed explanation of how such costs were computed, as incorporated in said report and estimate of cost prepared by the County Engineers (Erie County Department of Environment and Planning).

Dated: Buffalo, New York,
_____, 2002.

BY ORDER OF THE COUNTY
LEGISLATURE OF THE COUNTY OF
ERIE, NEW YORK

By _____
Clerk, County Legislature

Section 3. The Clerk of said County Legislature is hereby authorized and directed to cause a copy of the Notice of Public Hearing as set forth in Section 2 hereof to be published once in the "Font Page" and in the "Hamburg Sun," the official newspapers of said County, and in "The Buffalo News", not less than ten nor more than twenty days before the date set herein for said public hearing. The Clerk is hereby further authorized and directed to file a certified copy of the Notice of Public Hearing with the Comptroller of the State of New York on or about the date of the publication of the Notice of Public Hearing.

Section 4. This resolution shall take effect immediately.
(5-0)

			AS AMENDED
3.	Item	Page	-2001 (Comm. 25E-28)
	COUNTY EXECUTIVE		

WHEREAS, it has been determined that property acquisition is needed on a site adjacent to the Erie County Sewer District No. 6 overflow retention site identified as SBL No. 141.20-1-11 in the City of Lackawanna; and

WHEREAS, negotiations with the owner, 15 Buffalo Street Partners, LLC, has resulted in a tentative agreement to obtain the 5.04 ± acre site in Fee for the total sum of \$1.00; and

WHEREAS, the owner of the property: 15 Buffalo Street Partnership, LLC, 5288 Columbia Avenue, Hamburg, New York 14075 has requested an expeditious approval of an agreement to purchase the property; and

WHEREAS, the Department of Environment and Planning has performed an environmental assessment of the property which has revealed the property has no environmental concerns.

NOW, THEREFORE, BE IT

RESOLVED, that the Department of Environment and Planning be authorized to obtain the 5.04 ± acre property in Fee for Parcel SBL No. 141.20-2-11 in the City of Lackawanna for the sum of \$1.00, subject to the review and approval of the County Attorney; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute any and all documents necessary to effectuate the obtainment of the property, subject to Approval as to Form by the County Attorney, and be it further

RESOLVED, that certified copies of this resolution be sent to Charles J. Alessi, P.E., Deputy Commissioner of the Department of Environment and Planning, and Gregory J. Dudek, Assistant County Attorney, Nancy Naples, Erie County Comptroller, and Joseph Passafiume, Director, Budget, Management and Finance.

(6-0) Chairman DeBenedetti present as Ex-Officio Member.

AS AMENDED

4. Item Page -2002 (Comm. 4E-37)

COUNTY EXECUTIVE

WHEREAS, the Erie County Department of Environment and Planning has received the following low bid for Sanitary Sewer Extension Project, Contract No. 41EV, on March 21, 2002,

<u>Contract No.</u>	<u>Low Bidder</u>	<u>Amount Bid</u>
Contract No. 41EV	Kandey Company, Inc. 19 Ransier Drive West Seneca, NY 14224	\$413,000.00

and

WHEREAS, the aforementioned bidder has been recognized as successfully performing similar work in Erie County.

NOW, THEREFORE, BE IT

RESOLVED, that the Sanitary Sewer Extension Project, Contract No. 41EV, be awarded to the low bidder as follows:

<u>Contract No.</u>	<u>Low Bidder</u>	<u>Amount Bid</u>
Contract No. 41EV	Kandey Company, Inc. 19 Ransier Drive West Seneca, NY 14224	\$413,000.00

and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the Contract with the aforementioned low bidder subject to approval as to form by the County Attorney and certification of availability of funds from the Project Fund Balance or an authorized advance from the General Fund by the Comptroller's Office; and be it further

RESOLVED, that the Comptroller is authorized and directed to allocate \$413,000.00 from Sewer Capital, Erie County Sewer District No. 2, Fund No. 430, Project No. 913, and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two (2) certified copies of this resolution to Charles J. Alessi, P.E., Department of Environment and Planning, and one certified copy to James Liddle, Erie County Comptroller's Office and to Gregory Dudek, Assistant County Attorney.

(6-0) Chairman DeBenedetti present as Ex-Officio Member.

5. Item Page -2002 (Comm. 7E-24)

COUNTY EXECUTIVE

WHEREAS, the US Environmental Protection Agency-Great Lakes National Program Office provides grant assistance to implement habitat restoration and watershed protection programs; and

WHEREAS, on August 30, 1999, the Environmental Protection Agency-Great Lakes National Program Office awarded Erie County \$69,750 to implement a Cazenovia Creek Habitat Restoration and Stewardship Project (SFG Project #361); and

WHEREAS, the Department of Environment and Planning provides technical assistance to schools, communities, and businesses to address habitat restoration and non-point source pollution control needs; and

WHEREAS, the implementation of the Cazenovia Creek Habitat Restoration and Stewardship Project was so successful that the DEP requested and received a no-cost time extension from the Great Lakes National Program Office until May 30, 2002, for the continuation of the project and its implementation into four new schools; and

WHEREAS, in order to meet the requirements of the time extension and as approved by the Great Lakes National Program Office, the amount of \$1,689 in the existing budget must be transferred to the Personal Services Account Line 800.

NOW, THEREFORE BE IT

RESOLVED, that the existing grant budget for the Cazenovia Creek Habitat Restoration and Stewardship Project (SFG Project #361) is hereby revised to reflect that transfer of funds as follows:

<u>Act</u>	<u>Description</u>	<u>Current Budget</u>	<u>Revisions</u>	<u>Revised Budget</u>
800	Salaries	\$37,000	\$1,689	\$38,689
805	Fringe Benefits	6,750	0	6,750

810	Office Supplies	750	0	750
824	Local Mileage	550	0	550
825	Out of Area Travel	2,950	(1,682)	1,268
826	Other	1,000	(7)	993
830	Contractual Services	30,000	0	30,000
933	Lab and Technical Equip	<u>750</u>	<u>0</u>	<u>750</u>
Total Appropriations		\$79,750	0	\$79,750

and be it further

RESOLVED, that certified copies of this resolution be sent to the Director of Budget, Management and Finance; Laurence K. Rubin, Commissioner of Environment and Planning; Michael Raab, Deputy Commissioner of Environment and Planning; the County Comptroller; and the County Attorney.

(6-0) Chairman DeBenedetti present as Ex-Officio Member.

6. Item Page -2002 (Comm. 7E-26)

COUNTY EXECUTIVE

WHEREAS, the Erie County Sewer District No. 2 Board of Managers and the Erie County Legislature have previously authorized construction of a network of sanitary sewers and pumping stations in the Town of Evans; and

WHEREAS, Erie County Sewer District No. 2 would like to purchase a piece of property (SBL 234.16-4-1.1) adjacent to the Lake Street Pumping Station for the future replacement of the existing pumping station; and

WHEREAS, an independent appraisal has been prepared of the property for Erie County Sewer District No. 2; and

WHEREAS, negotiations have resulted in acceptance by the property owners, Richard J. Alberts and Joseph Herc, of an offer to purchase the 0.2 acre piece of property at Lake Street located in the Town of Evans for the appraised value of \$6,000.00.

NOW, THEREFORE, BE IT

RESOLVED, that Erie County Sewer District No. 2 be authorized to purchase the property adjacent to the Lake Street Pumping Station owned by Richard J. Alberts and Joseph Herc (SBL No. 234.16-4-1.1) for the sum of \$6,000.00; and be it further

RESOLVED, that the Comptroller be authorized and directed to allocate the sum of \$6,000.00 from Erie County Sewer District No. 2 Undesignated Fund Balance (220 852 299) to Use of Fund Balance (220 852 821 698 0105) and Contractual Services (220 852 820 830) ; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner of the Department of Environment and Planning, and Gregory J. Dudek, Assistant County Attorney, Nancy Naples, Erie County Comptroller, and Joseph Passafiume, Director, Budget, Management and Finance.
(6-0) Chairman DeBenedetti present as Ex-Officio Member.

7.	Item	Page	-2002	AS AMENDED (Comm. 7E-28)
	COUNTY EXECUTIVE			

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) has solicited for proposals in accordance with its Program Opportunity Notice (PON) No. 624-01 for performance based incentives to implement cost-effective electrical efficiency improvements and demand reduction; and

WHEREAS, the Department of Environment and Planning has advised the County Legislature that there are benefits to applying for a grant under this NYSERDA Program and has recommended application be made for funding these opportunities under NYSERDA's PON No. 624-01; and

WHEREAS, it is anticipated that NYSERDA will contribute up to \$250,000 for project approval with the balance of the project costs to be paid by the Southtowns Sewage Treatment Agency.

NOW, THEREFORE, BE IT

RESOLVED, that the County's Department of Environment and Planning be authorized and directed to make applications to NYSERDA for funding under PON No. 624-01 in the estimated amount of \$250,000; and be it further

RESOLVED, that any additional costs above and beyond the grant award will be appropriated from Sewer District Capital Fund 430-915; and be it further

RESOLVED, that an agreement with NYSERDA to implement the energy efficiency measures is hereby approved subject to a grant offer being made by NYSERDA; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute said agreement subject to approval as to form by the County Attorney and approval as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, one copy to Nancy Naples, County Comptroller, Gregory Dudek, Assistant County Attorney, and Joseph Passafiume, Director, Budget, Management and Finance.
(6-0) Chairman DeBenedetti present as Ex-Officio Member.

8.	Item	Page	-2002	(Comm. 7E-29)
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COUNTY EXECUTIVE

WHEREAS, the New York State Energy Research and Development Authority (NYSERDA) has solicited for proposals in accordance with its Program Opportunity Notice (PON) No. 669-01 to support new product development of distributed generation (DG) systems, components, and related power systems technologies; and demonstration of combined heat and power (CHP) configurations in industrial, municipal, institutional, commercial, and residential sectors; and

WHEREAS, the Department of Environment and Planning has advised the County Legislature that there are benefits to applying for a grant under this NYSERDA Program and has recommended application be made for funding these opportunities under NYSERDA's PON No. 669-01; and

WHEREAS, it is anticipated that NYSERDA will contribute up to \$1,000,000 for project approval.

NOW, THEREFORE, BE IT

RESOLVED, that the County's Department of Environment and Planning be authorized and directed to make applications to NYSERDA for funding under PON No. 669-01 in the estimated amount of \$1,000,000; and be it further

RESOLVED, that an agreement with NYSERDA to implement the demonstration project is hereby approved subject to a grant offer being made by NYSERDA; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute said agreement subject to approval as to form by the County Attorney and approval as to content by the Commissioner of the Department of Environment and Planning; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send two certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner, Department of Environment and Planning, one copy to Nancy Naples, County Comptroller, Gregory Dudek, Assistant County Attorney, and Joseph Passafiume, Director, Budget, Management and Finance. (6-0) Chairman DeBenedetti present as Ex-Officio Member.

9. Item Page -2002 (Comm. 7E-32)

COUNTY EXECUTIVE

WHEREAS, the Town of Cheektowaga is undertaking a bike/hike trail project; and

WHEREAS, the 1999 Erie County Budget included monies to assist the Town in planning, designing, and constructing said trail system; and

WHEREAS, bicycling and hiking are fast-growing recreational pursuits within Erie County; and

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive shall execute all necessary agreements with the Town of Cheektowaga for an amount not to exceed \$10,000 for the purpose of planning, designing, and constructing elements of a Bike/Hike Trail system; and be it further

RESOLVED, that the source of said funds for said agreement(s) shall be money appropriated in Account 830, Sub-Account 1034, in the 1999 Budget of the Department of Environment and Planning and rolled over to the 2002 Budget; and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Commissioner of the Department of Environment and Planning, the Director of the Division of Budget, Management and Finance, the County Attorney and the Erie County Comptroller. (6-0) Chairman DeBenedetti present as Ex-Officio Member.

				AS AMENDED
10.	Item	Page	-2002	(Comm. 7E-42)
	COMPTROLLER			
	RESOLUTION NO. ___-2002			

REFUNDING BOND RESOLUTION OF THE COUNTY OF ERIE, NEW YORK, AUTHORIZING THE REFUNDING OF ALL OR A PORTION OF VARIOUS OUTSTANDING BONDS OF SAID COUNTY, STATING THE PLAN OF REFUNDING, APPROPRIATING AN AMOUNT NOT TO EXCEED \$24,249,577 THEREFOR, AUTHORIZING THE ISSUANCE OF \$24,249,577 REFUNDING BONDS OF SAID COUNTY, OR SO MUCH THEREOF AS MAY BE NECESSARY, TO FINANCE SAID APPROPRIATION, AND MAKING CERTAIN DETERMINATIONS ALL RELATIVE THERETO.

(Introduced: April 8, 2002)

(Adopted: _____, 2002)

WHEREAS, the County of Erie, New York (herein called "County"), has heretofore issued and sold to the New York State Environmental Facilities Corporation ("EFC"): on November 15, 1994 its \$7,665,885 EFC Sewer System Serial Bonds-1994 (the "1994 Bonds"), now outstanding in the principal amount of \$5,340,000; on February 28, 1996 its \$11,564,500 EFC Sewer System Serial Bonds-1996-A (the "1996-A Bonds"), now outstanding in the principal amount of \$8,905,000; on June 26, 1996 its \$6,867,600 EFC Sewer System Serial Bonds-1996-B (the "1996-B Bonds"), now outstanding in the principal amount of \$5,610,000; on July 15, 1997 its \$694,100 EFC Sewer System Serial Bonds-1997-A (the "1997-A Bonds"), now outstanding in the principal amount of \$570,000; on July 30, 1998 its \$211,700 EFC Sewer System Serial Bonds-1998-A (the "1998-A Bonds"), now outstanding in the principal amount of \$180,000; on July 30, 1998 its

\$426,400 EFC Sewer System Serial Bonds-1998-B (the "1998-B Bonds"), now outstanding in the principal amount of \$365,000; on July 29, 1999 its \$228,298 EFC Sewer System Serial Bonds-1999-A (the "1999-A Bonds"), now outstanding in the principal amount of \$210,000; on March 9, 2000 its \$3,157,904 EFC Sewer System Serial Bonds-2000-A (the "2000-A Bonds"), now outstanding in the principal amount of \$2,867,904; and on March 9, 2000 its \$221,673 EFC Sewer System Serial Bonds-2000-B (the "2000-B Bonds"), now outstanding in the principal amount of \$201,673; such bonds bearing interest at the rates and on the dates, and being subject to prior redemption as set forth in each respective bond; and

WHEREAS, Section 90.10 of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), permits the County to refund all or a portion of the outstanding unredeemed maturities of such bonds by the issuance of new bonds, the issuance of which will result in present value debt service savings for the County; NOW, THEREFORE, BE IT

RESOLVED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ERIE, NEW YORK (by the affirmative vote of not less than two-thirds of the voting strength of said Legislature), AS FOLLOWS:

Section 1. In this Resolution, the following definitions apply, unless a different meaning clearly appears from the context:

a. "Bond To Be Refunded" or "Bonds To Be Refunded" means all or a portion of the outstanding \$5,340,000 1994 Bonds, \$8,905,000 1996-A Bonds, \$5,610,000 1996-B Bonds, \$570,000 1997-A Bonds, \$180,000 1998-A Bonds, \$365,000 1998-B Bonds, \$210,000 1999-A Bonds, \$2,867,904 2000-A Bonds, and \$201,673 2000-B Bonds of the County of Erie, New York.

b. "Present Value Savings" means the dollar savings which result from the issuance of the Refunding Bonds computed by discounting the principal and interest payments on both the Refunding Bonds and the Bonds To Be Refunded from the respective maturities thereof to the date of issue of the Refunding Bonds at a rate equal to the effective interest cost of the Refunding Bonds, after subtracting the present value of the projected total earnings on the EFC corpus allocation, payable to the County or available to make principal and interest payments with respect to the Refunding Bonds, from the present value of the total payments of the principal and interest to become due on the Refunding Bonds. The effective interest cost of the Refunding Bonds shall be that rate which is arrived at by doubling the semi-annual interest rate (compounded semi-annually), necessary to discount the debt service payments on the Refunding Bonds from the maturity dates thereof to the date of issue of the Refunding Bonds and to the bona fide initial public offering price including estimated accrued interest, or, if there is no public offering, to the price bid including estimated accrued interest.

c. "Redemption Date" means, as applicable: November 15, 2004 for the 1994 Bonds, June 15, 2006 for the 1996-A Bonds, January 15, 2006 for the 1996-B Bonds, June 15, 2007 for the 1997-A Bonds, August 15, 2008 for the 1998-A Bonds, and the 1998-B Bonds, October 15, 2009 for the 1999-A Bonds, and June 15, 2009 for the 2000-A Bonds and the 2000-B Bonds.

d. "Refunding Bond" or "Refunding Bonds" means a portion or all of the \$24,249,577 bonds of the County of Erie, authorized pursuant to Section 2 hereof.

e. "Refunding Bond Amount Limitation" means an amount of Refunding Bonds sufficient to pay (i) the sum of the principal amount of Bonds To Be Refunded, plus (ii) the aggregate amount of unmatured interest payable on each Bond To Be Refunded to and including the applicable Redemption Date, plus (iii) redemption premiums payable on such Bonds To Be Refunded as of such applicable Redemption Date, as hereinabove referred to in the Recitals hereof, plus (iv) costs and expenses incidental to the issuance of the Refunding Bonds including the development of the refunding financial plan, execution and performance of the terms and conditions of the Escrow Contract, all fees and charges of the Escrow Holder as referred to in Section 9 hereof, and the fees to be paid to EFC.

Section 2. The Legislature of the County (herein called "Legislature") hereby authorizes the refunding of the \$24,249,577 Bonds To Be Refunded of the County, more particularly described and referred to in the Recitals hereof, and appropriates an amount not to exceed \$24,249,577 therefor to accomplish such refunding. The plan of financing said appropriation includes the issuance of not to exceed \$24,249,577 Refunding Bonds and the levy and collection of a tax upon all the taxable real property within the County to pay the principal of and interest on said Refunding Bonds as the same shall become due and payable. Refunding Bonds of the County in the maximum principal amount of \$24,249,577 are hereby authorized to be issued pursuant to the provisions of the Law. The proposed financial plan for the refunding in the form attached hereto as Exhibit A (the "refunding financial plan") prepared for the County by UBS PaineWebber, New York, New York and hereby accepted and approved, includes the deposit of all the proceeds of said Refunding Bonds with an Escrow Holder pursuant to an Escrow Contract as authorized in Section 9 hereof, the payment of all costs incurred by the County in connection with said refunding from such proceeds, and the investment of a portion of such proceeds by the Escrow Holder in certain obligations, the principal of and interest on which, together with the balance of such proceeds to be held uninvested, shall be sufficient to pay (i) the principal of and interest on the Bonds To Be Refunded becoming due and payable on and prior to each applicable Redemption Date and (ii) the principal of and premium on the Bonds To Be Refunded to be called for redemption prior to maturity on each applicable Redemption Date.

Section 3. The \$24,249,577 Bonds To Be Refunded referred to in Section 1 hereof are the aggregate unmatured outstanding balances of nine (9) issues of bonds, each originally issued pursuant to various bond resolution(s) of the County, adopted on their respective dates authorizing various improvements to the sewer system serving Erie County. In accordance with the refunding financial plan, the Refunding Bonds authorized in the aggregate principal amount not to exceed \$24,249,577 have been allocated to the component issues of the Bonds To Be Refunded, and shall mature in amounts and at dates to be determined. The County Comptroller, the chief fiscal officer of the County, is hereby authorized to approve all details of the final refunding financial plan not contained herein.

Section 4. The issuance of the Refunding Bonds will not exceed the Refunding Bond Amount Limitation. The maximum period of probable usefulness ("PPU") of each issue

comprising the Bonds to be Refunded, commencing at the date of issuance of the first bond anticipation notes issued in anticipation of the sale of said bonds, is forty (40) years.

Section 5. The aggregate amount of estimated Present Value Savings as set forth in the proposed refunding financial plan attached hereto as Exhibit A, computed in accordance with subdivision two of paragraph b of Section 90.10 of the Law, is \$1,501,055.92.

Section 6. (a) Said \$24,249,577 Refunding Bonds shall be sold at private sale to EFC, and the County Comptroller, the chief fiscal officer of the County, is hereby authorized to execute one or more project and loan agreements on behalf of the County in relation to the sale of said Refunding Bonds. The County Comptroller is also hereby authorized, if requested to do so by EFC, to execute one or more Term Certificates on behalf of the County providing the terms and conditions for the sale of said Refunding Bonds to EFC, provided that the terms and conditions of such sale shall be approved by the State Comptroller, and further providing that prior to the issuance of the Refunding Bonds the County Comptroller shall have filed with the Legislature a certificate approved by the State Comptroller setting forth the Present Value Savings to the County resulting from the issuance of the Refunding Bonds; (b) the County Comptroller is hereby further authorized and directed to take any and all actions necessary to accomplish said refunding, and to execute any contracts and agreements for the purchase of and payment for services rendered or to be rendered the County in connection with said refunding including the preparation of the refunding financial plan referred to in Section 2.

Section 7. Each of the Refunding Bonds authorized by this Resolution shall contain the recital of validity prescribed by Section 52.00 of the Law and said Refunding Bonds shall be general obligations of the County payable as to both principal and interest by a general tax upon all the taxable real property within the County without limitation as to rate or amount. The faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and interest on said Refunding Bonds and provision shall be made annually in the budget of the County for (a) the amortization and redemption of the Refunding Bonds to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 8. Subject to the provisions of this Resolution and of the Law, and pursuant to the provisions of Sections 50.00 and 90.10 of the Law, the powers and duties of the County Legislature relative to prescribing the terms, form and contents and as to the sale and issuance of the Refunding Bonds, as well as to executing the Escrow Contract described in Section 9 are hereby delegated to the County Comptroller, the chief fiscal officer of the County.

Section 9. Prior to the issuance of the Refunding Bonds, the County shall contract with Manufacturers and Traders Trust Company, Buffalo, New York, a bank or trust company located and authorized to do business in this state, for the purpose of having such bank or trust company act as the Escrow Holder of the proceeds, inclusive of any premium from the sale of the Refunding Bonds, together with all income derived from the investment of such proceeds. The Escrow Contract shall contain such terms and conditions as shall be necessary in order to accomplish the refunding financial plan, including provisions for the Escrow Holder without further authorization or direction from the County, except as otherwise provided therein, (a) to make all required payments of principal, interest and redemption premiums to the appropriate paying agent with

respect to the Bonds To Be Refunded, (b) to pay costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the refunding financial plan, execution and performance of the terms and conditions of the Escrow Contract, all fees and charges as the Escrow Holder, and all fees payable to EFC, (c) at the appropriate time or times to cause to be given on behalf of the County the notices of redemption authorized to be given pursuant to Section 12 hereof, and (d) to invest the moneys held by it consistent with the provisions of the refunding financial plan. The Escrow Contract shall be irrevocable and shall constitute a covenant with the holders of the Refunding Bonds.

Section 10. The proceeds, inclusive of any premium, from the sale of the Refunding Bonds, immediately upon receipt, shall be placed in escrow by the County with the Escrow Holder in accordance with the Escrow Contract. All moneys held by the Escrow Holder shall be invested only in direct obligations of the United States of America or in obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, which obligations shall mature or be subject to redemption at the option of the holder thereof not later than the respective dates when such moneys will be required to make payments in accordance with the refunding financial plan. Any such moneys remaining in the custody of the Escrow Holder after the full execution of the Escrow Contract shall be returned to the County and shall be applied by the County only to the payment of the principal of or interest on the Refunding Bonds then outstanding.

Section 11. That portion of such proceeds from the sale of the Refunding Bonds, together with interest earned thereon, which shall be required for the payment of the principal of and interest on the Bonds To Be Refunded, including any redemption premiums, in accordance with the refunding financial plan, shall be irrevocably committed and pledged to such purpose and the holders of the Bonds To Be Refunded shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. The pledge and lien provided for herein shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the County irrespective of whether such parties have notice thereof. Neither this resolution, the Escrow Contract, nor any other instrument relating to such pledge and lien, need be filed or recorded.

Section 12. In accordance with the provisions of Section 53.00 and of paragraph h of Section 90.10 of the Law, the Legislature hereby elects to call in and redeem all the Bonds To Be Refunded which are subject to prior redemption according to their terms on each applicable Redemption Date. The sum to be paid therefor on each applicable Redemption Date shall be the par value thereof, the accrued interest to each applicable Redemption Date and the redemption premiums. The Escrow Holder is hereby authorized and directed to cause notices of such calls for redemption to be given in the name of the County, at least forty-five (45) days and no more than sixty (60) days prior written notice to EFC and to the Trustee for EFC in accordance with the applicable Term Certificate for each series of the Bonds To Be Refunded. Upon the issuance of the Refunding Bonds, the election to call in and redeem the Bonds To Be Refunded subject to prior redemption and the direction to the Escrow Holder to cause notices thereof to be given as provided

in this Section shall become irrevocable and the provisions of this Section shall constitute a covenant with the holders, from time to time, of the Refunding Bonds.

Section 13. This Resolution shall take effect immediately upon approval by the County Executive.

(6-0) Chairman DeBenedetti present as Ex-Officio Member.

JOHN W. GREENAN
CHAIRMAN